

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF VIRGINIA
Charlottesville Division

IN RE: TIMOTHY BROWN ALTHER
AMY LEIGH ALTHER
Debtors

CASE NO. 14-62429

JUDY A. ROBBINS, U. S. Trustee
Movant

v.

TIMOTHY BROWN ALTHER, and
AMY LEIGH ALTHER,
Respondents

DEBTORS' RESPONSE TO MOTION TO DISMISS CASE FOR ABUSE

In response to the Motion of the United States Trustee to Dismiss this Chapter 7 for abuse, the Debtors, by counsel, state as follows:

1. The Debtors admit the statements in paragraphs 1, 2, and 3 of the Motion.
2. The Debtors admit the statements in paragraphs 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13 of the Motion.
3. The Debtors admit the statements in paragraph 14 with respect to their tax returns, but have insufficient information to admit the remaining statements in paragraph 14 and in paragraph 15.
4. The Debtors admit the statements in paragraphs 16 and 17 of the motion, and acknowledge that the deduction described therein was inadvertently omitted from their Schedule J. The expense is for the maintenance of a telephone land line for Mrs. Alther's grandmother, who is elderly and lives alone.
5. The Debtors admit the statements in paragraph 18 of the Motion.
6. The Debtors admit that Mr. Alther's retirement contributions are voluntary.

7. The Debtors deny the statement in paragraph 20 of the Motion, and note further that Prudential Insurance considers the loan against Mr. Alther's retirement plan to be a secured debt. See Exhibit A attached hereto.

8. The Debtors deny the statement in paragraph 21 of the Motion.

9. The Debtors admit the statement in paragraph 22 of the Motion, but have insufficient information to admit or deny the statement in paragraph 23.

10. The Debtors deny the statements in paragraph 24 of the Motion.

11. The Debtors admit the statement in paragraph 25 of the Motion.

12. With respect to the statements in paragraphs 26, 27, 28, and 29 of the Motion, the Debtors state that the expenses described therein were included for the purposes of disclosure of expenses which would be allowable if this case were converted to a Chapter 13 proceeding. Form B22 for a Chapter 7 proceeding does not provide for entry for such deductions, nor does it provide for expected changes in Debtors' circumstances which would necessarily be taken into account in a Chapter 13.

13. The Debtors admit the statement in paragraph 30 of the Motion.

14. The Debtors admit the statements in paragraphs 31 and 32 of the Motion, and state further that the adjustments to Mr. Alther's income and deductions set forth in Line 56c of Form B22 were based on information and expectations available to Mr. Alther at the time this case was filed. The Debtors have prepared pro forma schedules and I and J and Form 22C2 to reflect Mr. Alther's income and deductions effective January 1, 2015, as reflected on his paystubs. These schedules are attached as Exhibit B.

15. The Debtors admit the statements in paragraphs 33 and 34 of the Motion, and state further that those statements reflect their situation at the time of filing. Thus far in 2015 the Debtors have incurred medical expenses in excess of \$6,000.00, which would nearly exhaust their annual HSA funds.

16. The statements in paragraph 35 of the Motion call for a legal conclusion.

17. With respect to the statements in paragraph 36 of the Motion, see number 14, above.

18. The Debtors deny the statements in paragraph 37 of the Motion.

19. The Debtors admit the statements in paragraphs 38 and 39 of the Motion.

20. The Debtors admit the statements in paragraph 40 of the Motion, but state further that at the time they were renting while their house was being built, they were paying for storage units for their furniture, in addition to their rent.

21. The Debtors admit the statement in paragraph 41 of the Motion, but state further that some of the credit card debt was incurred for unexpected overages in the construction of their house.

22. The Debtors admit the statement in paragraph 42 of the Motion.

23. The statement in paragraph 43 is speculative and does not require a response. However, the Debtors state further that their mortgage is with the same banking institution that is Mr. Alther's employer. If they were to abandon their house and let it go to foreclosure, or if they were to attempt a short sale of their house, they would not only incur a substantial deficiency, which would add to their debt, but also Mr. Alther would very likely lose his employment.

24. The Debtors have insufficient information to admit or deny the statement in paragraph 44 of the Motion, but acknowledge that they have made some adjustments in the expenses described therein since this case was filed.

25. The Debtors admit the statements in paragraphs 45 and 46 of the Motion.

26. The Debtors deny the statements in paragraph 47 of the Motion.

27. The Debtors admit the statement in paragraph 48 of the Motion, but deny that the payment described should be disallowed as it represents a non-dischargeable, priority debt which would have to be paid in full before any distributions to unsecured creditors in a Chapter 13.

28. The Debtors admit the statement in paragraph 49 of the Motion.

29. The Debtors deny the statements in paragraph 50 of the Motion, and state further that the deductions described therein would be allowable in a Chapter 13.

30. The Debtors deny the statements in paragraph 51 of the Motion.

31. The Debtors deny the statement in paragraph 52 of the Motion, and state further that beginning in July, 2014 Mr. Alther began substantially reducing his 401k contribution from \$704.69 per paycheck to the current deduction of \$352.34 per paycheck.

32. The Debtors admit the statement in paragraph 53 of the Motion, but state further that Mr. Alther's income would be eliminated if he were to default on his mortgage payments.

33. The Debtors admit the first sentence of paragraph 54 of the Motion, but state further that this Chapter 7 was filed as the result of their receipt in July, 2014 of the bill for past-due income taxes for 2012.

34. The Debtors admit the statements in paragraph 55 of the Motion.

35. The statements in paragraphs 56, 57, 58, 59 and 60 of the Motion are argumentative and call for legal conclusions.

WHEREFORE, your Debtors, by counsel, move that the Court deny the Motion to Dismiss for Abuse, and for such other and further relief as is just and appropriate.

TIMOTHY BROWN ALTHER
AMY LEIGH ALTHER

By counsel

/s/Douglas E. Little

DOUGLAS E. LITTLE, ATTORNEY AT LAW VSB#15238

710 East High St. (P.O. Box 254)

Charlottesville, VA 22902

434/977-4500

Counsel for the Debtor

CERTIFICATE

I certify that a true copy of the foregoing Response was electronically transmitted this 1st day of April, 2015 to the Office of the United States Trustee.

/s/Douglas E. Little

Exhibit A



Prudential Retirement Service
The Prudential Insurance
Company of America

January 16, 2015

United States Bankruptcy Court – Western District of Virginia
1101 Court St, Room 166
Lynchburg VA 24504

Prudential reference:
Union Bankshares Corporation 401(k)
Profit Sharing Plan

Court reference: Timothy B Alther
Case no: 14-62429

Dear Sir or Madam:

We have received the enclosed Bankruptcy Notice. The referenced debtor is a participant in a retirement plan that we presume to be exempt from inclusion in the debtor's bankruptcy estate. In addition, the debtor has an outstanding loan from the plan. The plan is administered with the assistance of The Prudential Insurance Company of America, but Prudential is not the plan administrator or other fiduciary with discretion as to plan operations.

The debt is fully secured by the participant's account balance in the plan, and, it is our understanding, not dischargeable in bankruptcy proceedings. The plan would not expect to participate in partial payments to unsecured creditors under a court-approved plan of payment under Chapter 13 or to be affected by any discharge of debts or liquidation of assets under Chapter 7. Accordingly, we will not be filling out the Proof of Claim form. However, the court, any trustee in bankruptcy and the debtor should be aware that if the current debt repayment schedule is not met for any reason, the entire outstanding loan balance will be in default. If payments are not reinstated within the prescribed grace period, the defaulted loan amount will be reported to the IRS as a deemed distribution to the debtor/participant, taxable to the participant in the year of default in compliance with Internal Revenue Code §72(p). The amount of the defaulted loan will be offset against the plan account that secures it when the account becomes distributable to the debtor/participant.

Because the debtor is a participant in a plan that we presume to be exempt from inclusion in the debtor's bankruptcy estate, we do not anticipate any effects on the debtor's account from the bankruptcy proceedings. Therefore, we will not restrict debtor's access to the funds in accordance with plan rules.

If you have any questions, please contact me at 800-840-5452 ext 58014.

Sincerely,

A handwritten signature in cursive script that reads "Dawn Wagner".
Dawn Wagner
Disbursement Specialist

cc: Timothy B Alther
Douglas E Little
William F Schneider
Paula Tignor

Exhibit B

Fill in this information to identify your case:

Debtor 1 Timothy Brown Alther 2
First Name Middle Name Last Name

Debtor 2 Amy Leigh Alther 2
(Spouse, if filing) First Name Middle Name Last Name

United States Bankruptcy Court for the: Western District of Virginia

Case number _____
(if known)

Check if this is:

- ☐ An amended filing
- ☐ A supplement showing post-petition chapter 13 income as of the following date:

MM / DD / YYYY

Official Form 6I

Schedule I: Your Income

12/13

Be as complete and accurate as possible. If two married people are filing together (Debtor 1 and Debtor 2), both are equally responsible for supplying correct information. If you are married and not filing jointly, and your spouse is living with you, include information about your spouse. If you are separated and your spouse is not filing with you, do not include information about your spouse. If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write your name and case number (if known). Answer every question.

Part 1: Describe Employment

1. Fill in your employment information.

If you have more than one job, attach a separate page with information about additional employers.

Include part-time, seasonal, or self-employed work.

Occupation may include student or homemaker, if it applies.

Employment status

- ☒ Employed
☐ Not employed

Employment status

- ☐ Employed
☐ Not employed

Occupation

Employer's name

Union Bank

Employer's address

P.O. Box 940
Number Street
Number Street

Ruther Glen, VA 22546-0000

City State ZIP Code
City State ZIP Code
How long employed there? 1 years

Part 2: Give Details About Monthly Income

Estimate monthly income as of the date you file this form. If you have nothing to report for any line, write \$0 in the space. Include your non-filing spouse unless you are separated.

If you or your non-filing spouse have more than one employer, combine the information for all employers for that person on the lines below. If you need more space, attach a separate sheet to this form.

	For Debtor 1	For Debtor 2 or non-filing spouse
2. List monthly gross wages, salary, and commissions (before all payroll deductions). If not paid monthly, calculate what the monthly wage would be.	\$ <u>15,259.36</u>	\$ <u>0.00</u>
3. Estimate and list monthly overtime pay.	+ \$ <u>0.00</u>	+ \$ <u>0.00</u>
4. Calculate gross income. Add line 2 + line 3.	\$ <u>15,259.36</u>	\$ <u>0.00</u>

Debtor 1

Timothy Brown Alther 2

First Name Middle Name Last Name

Case number (if known)

	For Debtor 1	For Debtor 2 or non-filing spouse
Copy line 4 here → 4.	\$ 15,259.36	\$ 0.00
5. List all payroll deductions:		
5a. Tax, Medicare, and Social Security deductions	\$ 3,583.32	\$ 0.00
5b. Mandatory contributions for retirement plans	\$ 0.00	\$ 0.00
5c. Voluntary contributions for retirement plans	\$ 704.68	\$ 0.00
5d. Required repayments of retirement fund loans	\$ 456.50	\$ 0.00
5e. Insurance	\$ 1,591.92	\$ 0.00
5f. Domestic support obligations	\$ 0.00	\$ 0.00
5g. Union dues	\$ 0.00	\$ 0.00
5h. Other deductions. Specify: <u>See Schedule Attached</u>	+\$ 2,141.92	+\$ 0.00
6. Add the payroll deductions. Add lines 5a + 5b + 5c + 5d + 5e + 5f + 5g + 5h.	\$ 6,886.42	\$ 0.00
7. Calculate total monthly take-home pay. Subtract line 6 from line 4.	\$ 8,372.94	\$ 0.00
8. List all other income regularly received:		
8a. Net income from rental property and from operating a business, profession, or farm Attach a statement for each property and business showing gross receipts, ordinary and necessary business expenses, and the total monthly net income.	\$ 0.00	\$ 0.00
8b. Interest and dividends	\$ 0.00	\$ 0.00
8c. Family support payments that you, a non-filing spouse, or a dependent regularly receive Include alimony, spousal support, child support, maintenance, divorce settlement, and property settlement.	\$ 0.00	\$ 0.00
8d. Unemployment compensation	\$ 0.00	\$ 0.00
8e. Social Security	\$ 0.00	\$ 0.00
8f. Other government assistance that you regularly receive Include cash assistance and the value (if known) of any non-cash assistance that you receive, such as food stamps (benefits under the Supplemental Nutrition Assistance Program) or housing subsidies. Specify: _____	\$ 0.00	\$ 0.00
8g. Pension or retirement income	\$ 0.00	\$ 0.00
8h. Other monthly income. Specify: _____	+\$ 0.00	+\$ 0.00
9. Add all other income. Add lines 8a + 8b + 8c + 8d + 8e + 8f + 8g + 8h.	\$ 0.00	\$ 0.00
10. Calculate monthly income. Add line 7 + line 9. Add the entries in line 10 for Debtor 1 and Debtor 2 or non-filing spouse.	\$ 8,372.94	\$ 0.00
11. State all other regular contributions to the expenses that you list in Schedule J. Include contributions from an unmarried partner, members of your household, your dependents, your roommates, and other friends or relatives. Do not include any amounts already included in lines 2-10 or amounts that are not available to pay expenses listed in Schedule J. Specify: _____		+\$ 0.00
12. Add the amount in the last column of line 10 to the amount in line 11. The result is the combined monthly income. Write that amount on the Summary of Schedules and Statistical Summary of Certain Liabilities and Related Data, if it applies	\$ 8,372.94	\$ 8,372.94
13. Do you expect an increase or decrease within the year after you file this form?		Combined monthly income
<input checked="" type="checkbox"/> No.		
<input type="checkbox"/> Yes. Explain: <u>None</u>		

IN RE Alther 2, Timothy Brown & Alther 2, Amy Leigh Case No. _____
Debtor(s)

SCHEDULE I - CURRENT INCOME OF INDIVIDUAL DEBTOR(S)
Continuation Sheet - Page 1 of 1

	DEBTOR	SPOUSE
Other Payroll Deductions:		
Health Insurance	1,322.70	0.00
Life Insurance	177.62	0.00
Disability Insurance	91.60	0.00
Health Savings	550.00	0.00

Fill in this information to identify your case:

Debtor 1 Timothy Brown Alther 2
First Name Middle Name Last Name

Debtor 2 Amy Leigh Alther 2
(Spouse, if filing) First Name Middle Name Last Name

United States Bankruptcy Court for the: Western District of Virginia

Case number _____
(if known)

Check if this is:

- ☐ An amended filing
- ☐ A supplement showing post-petition chapter 13 expenses as of the following date: _____
MM / DD / YYYY
- ☐ A separate filing for Debtor 2 because Debtor 2 maintains a separate household

Official Form 6J

Schedule J: Your Expenses

12/13

Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for supplying correct information. If more space is needed, attach another sheet to this form. On the top of any additional pages, write your name and case number (if known). Answer every question.

Part 1: Describe Your Household

1. Is this a joint case?

- ☐ No. Go to line 2.
- ☒ Yes. Does Debtor 2 live in a separate household?
- ☒ No
- ☐ Yes. Debtor 2 must file a separate Schedule J.

2. Do you have dependents?

Do not list Debtor 1 and Debtor 2.

Do not state the dependents' names.

- ☒ No
- ☐ Yes. Fill out this information for each dependent.....

Dependent's relationship to Debtor 1 or Debtor 2

Dependent's age

Does dependent live with you?

- ☐ No
☐ Yes
☐ No
☐ Yes
☐ No
☐ Yes
☐ No
☐ Yes
☐ No
☐ Yes

3. Do your expenses include expenses of people other than yourself and your dependents?

- ☒ No
- ☐ Yes

Part 2: Estimate Your Ongoing Monthly Expenses

Estimate your expenses as of your bankruptcy filing date unless you are using this form as a supplement in a Chapter 13 case to report expenses as of a date after the bankruptcy is filed. If this is a supplemental *Schedule J*, check the box at the top of the form and fill in the applicable date.

Include expenses paid for with non-cash government assistance if you know the value of such assistance and have included it on *Schedule I: Your Income* (Official Form 6I.)

4. The rental or home ownership expenses for your residence. Include first mortgage payments and any rent for the ground or lot.

Your expenses

4. \$ 4,246.56

If not included in line 4:

- 4a. Real estate taxes
- 4b. Property, homeowner's, or renter's insurance
- 4c. Home maintenance, repair, and upkeep expenses
- 4d. Homeowner's association or condominium dues

4a. \$ 0.00

4b. \$ 0.00

4c. \$ 61.25

4d. \$ 41.67

Debtor 1 Timothy Brown Alther 2
First Name Middle Name Last Name

Case number (if known) _____

Your expenses

5. Additional mortgage payments for your residence , such as home equity loans	5.	\$ <u>0.00</u>
6. Utilities:		
6a. Electricity, heat, natural gas	6a.	\$ <u>473.78</u>
6b. Water, sewer, garbage collection	6b.	\$ <u>0.00</u>
6c. Telephone, cell phone, Internet, satellite, and cable services	6c.	\$ <u>424.61</u>
6d. Other. Specify: <u>Trash</u>	6d.	\$ <u>26.00</u>
7. Food and housekeeping supplies	7.	\$ <u>1,100.00</u>
8. Childcare and children's education costs	8.	\$ <u>0.00</u>
9. Clothing, laundry, and dry cleaning	9.	\$ <u>250.00</u>
10. Personal care products and services	10.	\$ <u>100.00</u>
11. Medical and dental expenses	11.	\$ <u>0.00</u>
12. Transportation. Include gas, maintenance, bus or train fare. Do not include car payments.	12.	\$ <u>500.00</u>
13. Entertainment, clubs, recreation, newspapers, magazines, and books	13.	\$ <u>300.00</u>
14. Charitable contributions and religious donations	14.	\$ <u>0.00</u>
15. Insurance. Do not include insurance deducted from your pay or included in lines 4 or 20.		
15a. Life insurance	15a.	\$ <u>0.00</u>
15b. Health insurance	15b.	\$ <u>0.00</u>
15c. Vehicle insurance	15c.	\$ <u>123.08</u>
15d. Other insurance. Specify: <u>Umbrella Policy</u>	15d.	\$ <u>17.59</u>
16. Taxes. Do not include taxes deducted from your pay or included in lines 4 or 20. Specify: <u>Personal Property</u>	16.	\$ <u>129.47</u>
17. Installment or lease payments:		
17a. Car payments for Vehicle 1	17a.	\$ <u>796.76</u>
17b. Car payments for Vehicle 2	17b.	\$ <u>0.00</u>
17c. Other. Specify: <u>IRS</u>	17c.	\$ <u>935.35</u>
17d. Other. Specify: _____	17d.	\$ _____
18. Your payments of alimony, maintenance, and support that you did not report as deducted from your pay on line 5, Schedule I, Your Income (Official Form 6I).	18.	\$ <u>0.00</u>
19. Other payments you make to support others who do not live with you. Specify: <u>Telephone Land Line For Grandmother</u>	19.	\$ <u>72.00</u>
20. Other real property expenses not included in lines 4 or 5 of this form or on Schedule I: Your Income.		
20a. Mortgages on other property	20a.	\$ <u>0.00</u>
20b. Real estate taxes	20b.	\$ <u>0.00</u>
20c. Property, homeowner's, or renter's insurance	20c.	\$ <u>0.00</u>
20d. Maintenance, repair, and upkeep expenses	20d.	\$ <u>0.00</u>
20e. Homeowner's association or condominium dues	20e.	\$ <u>0.00</u>

Debtor 1

Timothy Brown Alther 2

First Name Middle Name Last Name

Case number (if known)

21. **Other.** Specify: _____

21. +\$ 0.00

22. **Your monthly expenses.** Add lines 4 through 21.

The result is your monthly expenses.

22. \$ 9,598.12

23. **Calculate your monthly net income.**

23a. Copy line 12 (*your combined monthly income*) from *Schedule I*.

23a. \$ 8,372.94

23b. Copy your monthly expenses from line 22 above.

23b. -- \$ 9,598.12

23c. Subtract your monthly expenses from your monthly income.

The result is your *monthly net income*.

23c. \$ -1,225.18

24. **Do you expect an increase or decrease in your expenses within the year after you file this form?**

For example, do you expect to finish paying for your car loan within the year or do you expect your mortgage payment to increase or decrease because of a modification to the terms of your mortgage?

☒ No.

☐ Yes.

None

Fill in this information to identify your case:

Debtor 1 Timothy Brown Alther 2
First Name Middle Name Last Name

Debtor 2 Amy Leigh Alther 2
(Spouse, if filing) First Name Middle Name Last Name

United States Bankruptcy Court for the: Western District of Virginia

Case number _____
(If known)

☐ Check if this is an amended filing

Official Form 22C-2

Chapter 13 Calculation of Your Disposable Income

12/14

To fill out this form, you will need your completed copy of *Chapter 13 Statement of Your Current Monthly Income and Calculation of Commitment Period* (Official Form 22C-1).

Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for being accurate. If more space is needed, attach a separate sheet to this form. Include the line number to which the additional information applies. On the top of any additional pages, write your name and case number (if known).

Part 1: Calculate Your Deductions from Your Income

The Internal Revenue Service (IRS) issues National and Local Standards for certain expense amounts. Use these amounts to answer the questions in lines 6-15. To find the IRS standards, go online using the link specified in the separate instructions for this form. This information may also be available at the bankruptcy clerk's office.

Deduct the expense amounts set out in lines 6-15 regardless of your actual expense. In later parts of the form, you will use some of your actual expenses if they are higher than the standards. Do not include any operating expenses that you subtracted from income in lines 5 and 6 of Form 22C-1, and do not deduct any amounts that you subtracted from your spouse's income in line 13 of Form 22C-1.

If your expenses differ from month to month, enter the average expense.

Note: Line numbers 1-4 are not used in this form. These numbers apply to information required by a similar form used in chapter 7 cases.

5. The number of people used in determining your deductions from income

Fill in the number of people who could be claimed as exemptions on your federal income tax return, plus the number of any additional dependents whom you support. This number may be different from the number of people in your household.

4

National Standards You must use the IRS National Standards to answer the questions in lines 6-7.

6. Food, clothing, and other items: Using the number of people you entered in line 5 and the IRS National Standards, fill in the dollar amount for food, clothing, and other items.

\$ 1,482.00

7. Out-of-pocket health care allowance: Using the number of people you entered in line 5 and the IRS National Standards, fill in the dollar amount for out-of-pocket health care. The number of people is split into two categories—people who are under 65 and people who are 65 or older—because older people have a higher IRS allowance for health care costs. If your actual expenses are higher than this IRS amount, you may deduct the additional amount on line 22.

Debtor 1

Timothy Brown Alther 2

First Name Middle Name Last Name

Case number (if known)

People who are under 65 years of age7a. Out-of-pocket health care allowance per person \$ 60.007b. Number of people who are under 65 X 4

7c. Subtotal. Multiply line 7a by line 7b.

\$ 240.00Copy line
7c here → \$ 240.00**People who are 65 years of age or older**7d. Out-of-pocket health care allowance per person \$ 144.007e. Number of people who are 65 or older X 0

7f. Subtotal. Multiply line 7d by line 7e.

\$ 0.00Copy line
7f here → + \$ 0.00

7g. Total. Add lines 7c and 7f.

\$ 240.00Copy total
here → 7g. \$ 240.00**Local
Standards**

You must use the IRS Local Standards to answer the questions in lines 8-15.

Based on information from the IRS, the U.S. Trustee Program has divided the IRS Local Standard for housing for bankruptcy purposes into two parts:

- Housing and utilities – Insurance and operating expenses
- Housing and utilities – Mortgage or rent expenses

To answer the questions in lines 8-9, use the U.S. Trustee Program chart. To find the chart, go online using the link specified in the separate instructions for this form. This chart may also be available at the bankruptcy clerk's office.

8. **Housing and utilities – Insurance and operating expenses:** Using the number of people you entered in line 5, fill in the dollar amount listed for your county for insurance and operating expenses.

\$ 565.00

9. **Housing and utilities – Mortgage or rent expenses:**

- 9a. Using the number of people you entered in line 5, fill in the dollar amount listed for your county for mortgage or rent expenses.

\$ 1,814.00

- 9b. Total average monthly payment for all mortgages and other debts secured by your home.

To calculate the total average monthly payment, add all amounts that are contractually due to each secured creditor in the 60 months after you file for bankruptcy. Next divide by 60.

Name of the creditor

Average monthly
paymentUnion First Market Bank\$ 4,246.56

\$ _____

+ \$ _____

- 9b. Total average monthly payment

\$ 4,246.56Copy line
9b here →- \$ 4,246.56Repeat this amount
on line 33a.

- 9c. Net mortgage or rent expense.

Subtract line 9b (total average monthly payment) from line 9a (mortgage or rent expense). If this number is less than \$0, enter \$0.

\$ 0.00

Copy 9c here →

\$ 0.00

10. If you claim that the U.S. Trustee Program's division of the IRS Local Standard for housing is incorrect and affects the calculation of your monthly expenses, fill in any additional amount you claim.

\$ 0.00

Explain why:

Debtor 1

Timothy Brown Alther 2

First Name Middle Name Last Name

Case number (if known)

11. Local transportation expenses: Check the number of vehicles for which you claim an ownership or operating expense.

- ☐ 0. Go to line 14.
- ☐ 1. Go to line 12.
- ☒ 2 or more. Go to line 12.

12. Vehicle operation expense: Using the IRS Local Standards and the number of vehicles for which you claim the operating expenses, fill in the *Operating Costs* that apply for your Census region or metropolitan statistical area.**\$ 688.00****13. Vehicle ownership or lease expense:** Using the IRS Local Standards, calculate the net ownership or lease expense for each vehicle below. You may not claim the expense if you do not make any loan or lease payments on the vehicle. In addition, you may not claim the expense for more than two vehicles.

Vehicle 1 Describe Vehicle 1: 2013 BMW

13a. Ownership or leasing costs using IRS Local Standard 13a. \$ 517.00

13b. Average monthly payment for all debts secured by Vehicle 1.
Do not include costs for leased vehicles.

To calculate the average monthly payment here and on line 13e, add all amounts that are contractually due to each secured creditor in the 60 months after you file for bankruptcy. Then divide by 60.

Name of each creditor for Vehicle 1	Average monthly payment
<u>BMW Of North America</u>	\$ <u>521.63</u>

Copy 13b here →

— \$ 521.63

Repeat this amount on line 33b.

13c. Net Vehicle 1 ownership or lease expense

Subtract line 13b from line 13a. If this number is less than \$0, enter \$0. 13c.

\$ 0.00

Copy net Vehicle 1 expense here →

\$ 0.00

Vehicle 2 Describe Vehicle 2: _____

13d. Ownership or leasing costs using IRS Local Standard 13d. \$ 0.00

13e. Average monthly payment for all debts secured by Vehicle 2.
Do not include costs for leased vehicles.

Name of each creditor for Vehicle 2	Average monthly payment
_____	\$ <u>0.00</u>

Copy here →

— \$ 0.00

Repeat this amount on line 33c.

13f. Net Vehicle 2 ownership or lease expense

Subtract line 13e from line 13d. If this number is less than \$0, enter \$0. 13f.

\$ 0.00

Copy net Vehicle 2 expense here →

\$ 0.00**14. Public transportation expense:** If you claimed 0 vehicles in line 11, using the IRS Local Standards, fill in the *Public Transportation* expense allowance regardless of whether you use public transportation.**\$ 0.00****15. Additional public transportation expense:** If you claimed 1 or more vehicles in line 11 and if you claim that you may also deduct a public transportation expense, you may fill in what you believe is the appropriate expense, but you may not claim more than the IRS Local Standard for *Public Transportation*.**\$ 0.00**

Debtor 1

Timothy Brown Alther 2

First Name

Middle Name

Last Name

Case number (if known)

Other Necessary Expenses

In addition to the expense deductions listed above, you are allowed your monthly expenses for the following IRS categories.

16. **Taxes:** The total monthly amount that you actually pay for federal, state and local taxes, such as income taxes, self-employment taxes, social security taxes, and Medicare taxes. You may include the monthly amount withheld from your pay for these taxes. However, if you expect to receive a tax refund, you must divide the expected refund by 12 and subtract that number from the total monthly amount that is withheld to pay for taxes. \$ 3,583.32
Do not include real estate, sales, or use taxes.
17. **Involuntary deductions:** The total monthly payroll deductions that your job requires, such as retirement contributions, union dues, and uniform costs. \$ 0.00
Do not include amounts that are not required by your job, such as voluntary 401(k) contributions or payroll savings.
18. **Life insurance:** The total monthly premiums that you pay for your own term life insurance. If two married people are filing together, include payments that you make for your spouse's term life insurance. \$ 177.62
Do not include premiums for life insurance on your dependents, for a non-filing spouse's life insurance, or for any form of life insurance other than term.
19. **Court-ordered payments:** The total monthly amount that you pay as required by the order of a court or administrative agency, such as spousal or child support payments. \$ 0.00
Do not include payments on past due obligations for spousal or child support. You will list these obligations in line 35.
20. **Education:** The total monthly amount that you pay for education that is either required: \$ 0.00
☐ as a condition for your job, or
☐ for your physically or mentally challenged dependent child if no public education is available for similar services.
21. **Childcare:** The total monthly amount that you pay for childcare, such as babysitting, daycare, nursery, and preschool. \$ 0.00
Do not include payments for any elementary or secondary school education.
22. **Additional health care expenses, excluding insurance costs:** The monthly amount that you pay for health care that is required for the health and welfare of you or your dependents and that is not reimbursed by insurance or paid by a health savings account. Include only the amount that is more than the total entered in line 7. \$ 0.00
Payments for health insurance or health savings accounts should be listed only in line 25.
23. **Optional telephones and telephone services:** The total monthly amount that you pay for telecommunication services for you and your dependents, such as pagers, call waiting, caller identification, special long distance, or business cell phone service, to the extent necessary for your health and welfare or that of your dependents or for the production of income, if it is not reimbursed by your employer. + \$ 0.00
Do not include payments for basic home telephone, internet or cell phone service. Do not include self-employment expenses, such as those reported on line 5 of Form 22C-1, or any amount you previously deducted.
24. **Add all of the expenses allowed under the IRS expense allowances.** **\$6,735.94**
Add lines 6 through 23.

Additional Expense Deductions

These are additional deductions allowed by the Means Test.

Note: Do not include any expense allowances listed in lines 6-24.

25. **Health insurance, disability insurance, and health savings account expenses.** The monthly expenses for health insurance, disability insurance, and health savings accounts that are reasonably necessary for yourself, your spouse, or your dependents.
- | | | | |
|------------------------|----|---------------------------|---------------------------|
| Health insurance | \$ | <u>1,322.70</u> | |
| Disability insurance | \$ | <u>91.60</u> | |
| Health savings account | + | \$ <u>550.00</u> | |
| Total | | \$ <u>1,964.30</u> | \$ <u>1,964.30</u> |
- Do you actually spend this total amount?
- ☐ No. How much do you actually spend? \$ 0.00
- ☒ Yes
26. **Continuing contributions to the care of household or family members.** The actual monthly expenses that you will continue to pay for the reasonable and necessary care and support of an elderly, chronically ill, or disabled member of your household or member of your immediate family who is unable to pay for such expenses. \$ 72.00
27. **Protection against family violence.** The reasonably necessary monthly expenses that you incur to maintain the safety of you and your family under the Family Violence Prevention and Services Act or other federal laws that apply. \$ 0.00

By law, the court must keep the nature of these expenses confidential.

Debtor 1

Timothy Brown Alther 2

First Name Middle Name Last Name

Case number (if known)

28. **Additional home energy costs.** Your home energy costs are included in your non-mortgage housing and utilities allowance on line 8.

If you believe that you have home energy costs that are more than the home energy costs included in the non-mortgage housing and utilities allowance, then fill in the excess amount of home energy costs.

\$ 0.00

You must give your case trustee documentation of your actual expenses, and you must show that the additional amount claimed is reasonable and necessary.

29. **Education expenses for dependent children who are younger than 18.** The monthly expenses (not more than \$156.25* per child) that you pay for your dependent children who are younger than 18 years old to attend a private or public elementary or secondary school.

\$ 0.00

You must give your case trustee documentation of your actual expenses, and you must explain why the amount claimed is reasonable and necessary and not already accounted for in lines 6-23.

* Subject to adjustment on 4/01/16, and every 3 years after that for cases begun on or after the date of adjustment.

30. **Additional food and clothing expense.** The monthly amount by which your actual food and clothing expenses are higher than the combined food and clothing allowances in the IRS National Standards. That amount cannot be more than 5% of the food and clothing allowances in the IRS National Standards.

\$ 0.00

To find a chart showing the maximum additional allowance, go online using the link specified in the separate instructions for this form. This chart may also be available at the bankruptcy clerk's office.

You must show that the additional amount claimed is reasonable and necessary.

31. **Continuing charitable contributions.** The amount that you will continue to contribute in the form of cash or financial instruments to a religious or charitable organization. 11 U.S.C. § 548(d)(3) and (4).

+ 0.00

Do not include any amount more than 15% of your gross monthly income.

32. **Add all of the additional expense deductions.**

Add lines 25 through 31.

\$ 2,036.30

Deductions for Debt Payment

33. **For debts that are secured by an interest in property that you own, including home mortgages, vehicle loans, and other secured debt, fill in lines 33a through 33g.**

To calculate the total average monthly payment, add all amounts that are contractually due to each secured creditor in the 60 months after you file for bankruptcy. Then divide by 60.

		Average monthly payment
Mortgages on your home		
33a. Copy line 9b here	→	\$ <u>4,246.56</u>
Loans on your first two vehicles		
33b. Copy line 13b here.	→	\$ <u>521.63</u>
33c. Copy line 13e here.	→	\$ <u>0.00</u>
Name of each creditor for other secured debt	Identify property that secures the debt	Does payment include taxes or insurance?
33d. <u>BMW Of North America</u>	<u>Automobile (1)</u>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes
		\$ <u>521.63</u>
33e. <u>Prudential Retirement</u>	<u>Union Bank 401k</u>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes
		\$ <u>351.52</u>
33f. <u>Union First Market Bank</u>	<u>Residence</u>	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes
		+ \$ <u>4,246.56</u>
33g. Total average monthly payment. Add lines 33a through 33f.		\$ <u>5,119.71</u>

Copy total here →

\$ 5,119.71

Debtor 1

Timothy Brown Alther 2

First Name Middle Name Last Name

Case number (if known)

34. Are any debts that you listed in line 33 secured by your primary residence, a vehicle, or other property necessary for your support or the support of your dependents?

- ☒ No. Go to line 35.
- ☐ Yes. State any amount that you must pay to a creditor, in addition to the payments listed in line 33, to keep possession of your property (called the *cure amount*). Next, divide by 60 and fill in the information below.

Name of the creditor	Identify property that secures the debt	Total cure amount	Monthly cure amount
_____	_____	\$ _____ + 60 =	\$ _____
_____	_____	\$ _____ + 60 =	\$ _____
_____	_____	\$ _____ + 60 =	\$ _____
		Total	<div style="border: 1px solid black; padding: 2px;">\$ <u>0.00</u></div> <div style="display: inline-block; vertical-align: middle;">Copy total here →</div> <div style="border: 1px solid black; padding: 2px; margin-left: 10px;">\$ <u>0.00</u></div>

35. Do you owe any priority claims—such as a priority tax, child support, or alimony—that are past due as of the filing date of your bankruptcy case? 11 U.S.C. § 507.

- ☐ No. Go to line 36.
- ☒ Yes. Fill in the total amount of all of these priority claims. Do not include current or ongoing priority claims, such as those you listed in line 19.

Total amount of all past-due priority claims. \$ 60,381.00 + 60 \$ 1,006.35

36. Projected monthly Chapter 13 plan payment

\$ _____

Current multiplier for your district as stated on the list issued by the Administrative Office of the United States Courts (for districts in Alabama and North Carolina) or by the Executive Office for United States Trustees (for all other districts).

To find a list of district multipliers that includes your district, go online using the link specified in the separate instructions for this form. This list may also be available at the bankruptcy clerk's office.

X _____

Average monthly administrative expense

\$ _____

Copy total here →

\$ _____

37. Add all of the deductions for debt payment. Add lines 33g through 36.\$ 6,126.06**Total Deductions from Income****38. Add all of the allowed deductions.**Copy line 24, All of the expenses allowed under IRS expense allowances..... \$ 6,735.94Copy line 32, All of the additional expense deductions..... \$ 2,036.30Copy line 37, All of the deductions for debt payment..... + \$ 6,126.06

Total deductions

\$ 14,898.30

Copy total here →

\$ 14,898.30

Debtor 1 **Timothy Brown Alther 2**
 First Name Middle Name Last Name

Case number (if known) _____

Part 2: Determine Your Disposable Income Under 11 U.S.C. § 1325(b)(2)

39. Copy your total current monthly income from line 14 of Form 22C-1, Chapter 13 **Statement of Your Current Monthly Income and Calculation of Commitment Period.** **\$15,259.36**

40. Fill in any reasonably necessary income you receive for support for dependent children.
 The monthly average of any child support payments, foster care payments, or disability payments for a dependent child, reported in Part I of Form 22C-1, that you received in accordance with applicable nonbankruptcy law to the extent reasonably necessary to be expended for such child. \$ **0.00**

41. Fill in all qualified retirement deductions. The monthly total of all amounts that your employer withheld from wages as contributions for qualified retirement plans, as specified in 11 U.S.C. § 541(b)(7) plus all required repayments of loans from retirement plans, as specified in 11 U.S.C. § 362(b)(19). \$ **704.68**

42. Total of all deductions allowed under 11 U.S.C. § 707(b)(2)(A). Copy line 38 here ➔ **\$ 14,898.30**

43. Deduction for special circumstances. If special circumstances justify additional expenses and you have no reasonable alternative, describe the special circumstances and their expenses. You must give your case trustee a detailed explanation of the special circumstances and documentation for the expenses.

Describe the special circumstances	Amount of expense
43a. _____	\$ _____
43b. _____	\$ _____
43c. _____	+ \$ _____
43d. Total. Add lines 43a through 43c. _____	<div style="border: 1px solid black; padding: 2px;">\$ 0.00</div> <small>Copy 43d here ➔</small> + \$ 0.00

44. Total adjustments. Add lines 40 and 43d. ➔

\$ **15,602.98**

Copy total here ➔ - **\$15,602.98**

45. Calculate your monthly disposable income under § 1325(b)(2). Subtract line 44 from line 39.

\$-343.62

Part 3: Change in Income or Expenses

46. Change in income or expenses. If the income in Form 22C-1 or the expenses you reported in this form have changed or are virtually certain to change after the date you filed your bankruptcy petition and during the time your case will be open, fill in the information below. For example, if the wages reported increased after you filed your petition, check 22C-1 in the first column, enter line 2 in the second column, explain why the wages increased, fill in when the increase occurred, and fill in the amount of the increase.

Form	Line	Reason for change	Date of change	Increase or decrease?	Amount of change
<input type="checkbox"/> 22C-1				<input type="checkbox"/> Increase	\$ _____
<input type="checkbox"/> 22C-2				<input type="checkbox"/> Decrease	\$ _____
<input type="checkbox"/> 22C-1				<input type="checkbox"/> Increase	\$ _____
<input type="checkbox"/> 22C-2				<input type="checkbox"/> Decrease	\$ _____
<input type="checkbox"/> 22C-1				<input type="checkbox"/> Increase	\$ _____
<input type="checkbox"/> 22C-2				<input type="checkbox"/> Decrease	\$ _____
<input type="checkbox"/> 22C-1				<input type="checkbox"/> Increase	\$ _____
<input type="checkbox"/> 22C-2				<input type="checkbox"/> Decrease	\$ _____